



DEPARTMENT OF COMMERCE

International Trade Administration

[A-533-843]

Certain Lined Paper Products from India: Notice of Court Decision Not in Harmony With Final Results of Antidumping Duty Administrative Review and Notice of Amended Final Results of Antidumping Duty Administrative Review; 2010-2011

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: On May 4, 2015, the United States Court of International Trade (the Court) issued *Navneet II*,¹ which sustained the Final Remand Results² that the Department of Commerce (the Department) issued in connection with *Navneet I*.³ In the Final Remand Results, the Department recalculated the weighted-average dumping margin that was established for 51 companies that neither failed to cooperate with the agency nor were selected for individual investigation (hereinafter referred to as the non-selected respondents).⁴

Consistent with the decision of the United States Court of Appeals for the Federal Circuit (CAFC) in *Timken*,⁵ as clarified by *Diamond Sawblades*,⁶ the Department is notifying the public that the final judgment in this case is not in harmony with the Department's final results of the administrative review of the antidumping duty order on certain lined paper products from India covering the period of review September 1, 2010, through August 31, 2011 (POR).

DATES: *Effective Date*: May 14, 2015.

¹ See *Navneet Publications (India) Ltd. et al. v. United States*, Court No. 13-00204, Slip. Op. 15-41 (CIT May 4, 2015) (*Navneet II*).

² See *Final Results Of Redetermination Pursuant To Court Remand*, Court No. 13-00204, Slip Op. 14-87 (December 4, 2014) (Final Remand Results), which is available at <http://enforcement.trade.gov/remands/14-87.pdf>.

³ See *Navneet Publications (India) Ltd. v. United States*, Court No. 13-00204, Slip Op. 14-87 (CIT July 22, 2014) (*Navneet I*).

⁴ See Final Remand Results at 12-17.

⁵ See *Timken Co. v. United States*, 893 F.2d 337 (Fed. Cir. 1990) (*Timken*).

⁶ See *Diamond Sawblades Mfrs. Coalition v. United States*, 626 F.3d 1374 (Fed. Cir. 2010) (*Diamond Sawblades*).

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SUPPLEMENTARY INFORMATION:

Background

On April 15, 2013, the Department issued the *Final Results*.⁷ Navneet Education Ltd. (Navneet)⁸ and eight other companies⁹ timely filed complaints with the Court and challenged certain aspects of the *Final Results*. In *Navneet I*, the Court remanded the Department's *Final Results* with respect to the Department's calculation of the 11.01 percent non-selected rate assigned to 51 non-selected respondents. The Department based the non-selected rate on the simple average of the two mandatory respondents' zero rates and two (out of four) of the 22.02 percent adverse facts available (AFA) rates assigned to the uncooperative respondents, which failed to respond to the Department's quantity and value questionnaire.¹⁰

On July 22, 2014, the Court remanded the Department's *Final Results* and instructed the Department to reconsider the following two issues: (1) that the rate assigned to the non-selected companies should be supported by "substantial evidence," and (2) that the rate reflects the "economic reality" and "pricing behavior" of the non-selected respondents.¹¹

⁷ See *Certain Lined Paper Products from India: Final Results of Antidumping Duty Administrative Review; 2010–2011*, 78 FR 22232 (April 15, 2013) (*Final Results*) and accompanying Issues and Decision Memorandum (Final Decision Memorandum).

⁸ Navneet Education Ltd. (Navneet) was formally known as Navneet Publications (India) Ltd. See *Certain Lined Paper Products From India: Final Results of Changed Circumstances Review*, 79 FR 35727 (June 24, 2014) (*Navneet CCR Final Results*).

⁹ The other eight companies are: Marisa International; Riddhi Enterprises, Ltd.; Super Impex; Pioneer Stationary Pvt. Ltd.; SGM Paper Products; SAB International; Lodha Offset Limited; and Magic International Pvt. Ltd. By Court Order on June 20, 2013, Riddhi Enterprises, Ltd. and SAB International were dismissed from the litigation.

¹⁰ See *Navneet I* at 19, referencing the Final Decision Memorandum at Comment 5.

¹¹ See *Navneet I* at 15.

On December 4, 2014, the Department filed the Final Remand Results with the Court, in which it continued to find evidence of dumping during the POR, drew an inference that the behavior of uncooperative respondents reflects rational choice, and, thus, found it reasonable to assign an above *de minimis* margin to the non-selected respondents.¹² In the Final Remand Results, the Department explained that this approach complied with the Court's holding in *Navneet I* that the non-selected margin be tied to the relevant factual circumstances of the administrative review and the economic reality of the non-selected respondents.¹³ On May 4, 2015, the Court entered judgment sustaining the Final Remand Results.¹⁴

Timken Notice

In *Timken*, 893 F.2d at 341, as clarified by *Diamond Sawblades*, the CAFC held that, pursuant to section 516A(e) of the Tariff Act of 1930, as amended (the Act), the Department must publish a notice of a court decision that is not “in harmony” with a Department determination and must suspend liquidation of entries pending a “conclusive” court decision. The Court's judgment in *Navneet II* sustaining the Final Remand Results constitutes a final decision of the Court that is not in harmony with the Department's *Final Results*. This notice is published in fulfillment of the publication requirement of *Timken*.

Amended Final Results

Because there is now a final court decision, the Department is amending the *Final Results* with respect to Navneet and the other non-selected, cooperative exporters that are plaintiffs in this case. The revised weighted-average dumping margins for these exporters during the period September 1, 2010, through August 31, 2011, are as follows:

¹² See Final Remand Results 14-15.

¹³ *Id.*

¹⁴ See *Navneet II* at 11.

Weighted-Average Dumping Margin for Plaintiff Exporters:

Producer/Exporter	Weighted-Average Dumping Margin (percent)
Lodha Offset Limited	0.50
Magic International Pvt Ltd	0.50
Marisa International	0.50
Navneet Education Ltd. ¹⁵	0.50
Pioneer Stationery Pvt. Ltd.	0.50
SGM Paper Products	0.50
Super Impex	0.50

Accordingly, the Department will continue the suspension of liquidation of the subject merchandise pending the expiration of the period of appeal or, if appealed, pending a final and conclusive court decision. In the event the Court's ruling is not appealed or, if appealed, upheld by the CAFC, the Department will instruct U.S. Customs and Border Protection to assess antidumping duties on unliquidated entries of subject merchandise exported by the above listed exporters at the rate listed above.

Cash Deposit Requirements

Since the *Final Results*, the Department has established a new cash deposit rate for Navneet Education Ltd. and Super Impex.¹⁶ Therefore, the cash deposit rate for these two companies does not need to be updated as a result of these amended final results. The cash deposit rate will be the rate listed above for the remaining five companies listed above and subject to this remand.

Notification to Interested Parties

¹⁵ Navneet Education Ltd. is a successor in interest to Navneet Publications (India) Ltd. See *Navneet CCR Final Results*.

¹⁶ See *Certain Lined Paper Products From India: Final Results of Antidumping Duty Administrative Review; 2011-2012*, 79 FR 26205 (May 7, 2014); see also *Certain Lined Paper Products From India: Final Results of Antidumping Duty Administrative Review; 2012-2013*, 80 FR 19278 (April 10, 2015).

This notice is issued and published in accordance with sections 516A(e), 751(a)(1), and 777(i)(1) of the Act.

Dated: May 14, 2015.

Paul Piquado,
Assistant Secretary
for Enforcement and Compliance.

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